XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL APPEAL NO. 1993 OF 1996

APPELLANT — Prem Singh, s/o Gulab Singh Rajput, aged 55 years, R/o Katul Board, Near Hanuman Mandir, P.S. Mohan Nagar, Durg, M.P.

VERSUS

RESPONDENT — State of Madhya Pradesh Through Police Station G.R.P. Raipur, M.P.

Present:
None for the appellant.
Shri Neeraj Mehta, P.L. for the State/respondent.

JUDGMENT
(13.08.2007)

Dhirendra Mishra, J

In compliance of the order dated 25.6.2007 notice was issued to the appellant from Court side for his appearance before the Court on 6th August 2007. However, from perusal of the service report of Town Inspector, P.S. Mohan Nagar, Durg, it appears that the appellant does not reside in the given address.

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

The Additional Public Prosecutor appearing for the State has submitted a written communication that as per report received from the Central Jail, Raipur the appellant has been released on 14.5.1997 after getting special remission.

Thus, from the conduct of the appellant it appears that since he has been released from jail after completing the jail sentence, he is not interested in prosecuting this appeal.

Taking into consideration the fact that the appellant is not residing in the given address and also considering that the appellant has been released from jail after undergoing the sentence imposed on him on special remission, this appeal is being decided in the absence of the appellant on the basis of evidence available on record.

Appellant Prem Singh has been convicted under Sections 328 and 379 of the IPC and sentenced to undergo R.I. for 2 ½ years under each section. He has also been fined Rs. 2,000/- and Rs. 1,000/- under Sections 328 & 379 respectively with default stipulation.

Allegation against the present appellant is that complainant Sheikh Abdullah Bari lodged a written report on

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 3	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

11.1.1993 to the effect that on 7.1.1993 while he was traveling by train, co-passenger offered him tea at Raipur, as a result of which he became unconscious and regained consciousness only on the next day at Bilaspur. His luggage and cash were stolen. On the basis of above report the offence was registered and investigation was conducted. The accused persons who were arrested in connection with some other offence pending in Gondiya Court were put to test identification and the complainant correctly identified them. After committal learned III Additional Sessions Judge, Raipur framed charge under Sections 328 and 379 of the IPC.

During trial the prosecution examined six witnesses. Thereafter, statement of the accused/appellant was recorded under Section 313 of the Cr.P.C. in which he denied the material appearing against him in the prosecution case and pleaded innocence and false implication. After hearing counsel for the respective parties, learned trial Court convicted and sentenced the accused/appellant as mentioned in paragraph 1 of this judgment. However, accused Ramesh was acquitted of the charges by extending benefit of doubt.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(23)

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 4	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Conviction of the appellant is based on the statement of the complainant Sheikh Abdullah Bari (PW-1) who correctly identified the appellant as the person who offered him tea at Raipur station, as a result of which he fell unconscious. The recovery of stolen articles on the memorandum of the accused has also been proved by this witness. Thus, the learned trial Court relying upon the statement of the complainant, has convicted and sentenced the appellant by the impugned judgment. There is no illegality or infirmity in the impugned judgment which calls for interference by this Court.

In the result, the appeal being devoid of substance is liable to be dismissed and is accordingly dismissed.

Sd/-
Dhirendra Mishra
Judge